

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SHMUEL STOLLMAN and ELISA STOLLMAN,
on behalf of their infant children E.S. and L.S.,

Plaintiffs,

- against -

ORDER

LAKEASHA WILLIAMS, MIRIAM ORTIZ-DOWNES,
GLENN HYMAN, KAI HAYES, EDWARD O'CONNOR,
ANNEMARIE FUSCHETTI, KEREN ENNETTE,
CARMELA MONTANILE, EBONY RUSSELL,
TONYA WHEELLOCK, and CITY OF NEW YORK,

20-CV-8937 (PAE)(KNF)

Defendants.

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KEVIN NATHANIEL FOX
UNITED STATES MAGISTRATE JUDGE

This writing memorializes the determination made by the Court during the conference held on November 18, 2021. The plaintiffs filed a motion, Docket Entry No. 54, seeking an order, pursuant to Rule 45(g) of the Federal Rules of Civil Procedure, holding Safe Horizon, Inc. ("Safe Horizon"), in contempt of court for failing to comply with a subpoena duces tecum. Safe Horizon is not a party to this action. Through the subpoena, the plaintiffs sought documents, and video and audio recordings relating to infant plaintiff ES's November 8, 2017 forensic interview conducted at Safe Horizon's affiliate, the Brooklyn Child Advocacy Center ("BCAC"). Safe Horizon objected to the subpoena, contending that the materials sought are confidential and shielded from disclosure under N.Y. Social Service Law § 423-a(5)(A). That statute protects the confidentiality of "files, reports, records, communications, working papers or videotaped interviews" of child advocacy centers, such as BCAC, and only permits their disclosure for enumerated uses, including "for the purpose of investigation, prosecution and/or adjudication in any relevant court proceeding." Based on the motion record and the arguments made during the conference, and for the reasons communicated to the conference participants, the Court finds that

the instant action is not a “relevant court proceeding,” as contemplated by N.Y. Social Service Law § 423-a(5)(A), which would permit the disclosure to the plaintiffs of the material described in the subpoena. Therefore, Safe Horizon need not comply with the subpoena and the plaintiffs’ motion, Docket Entry No. 54, that Safe Horizon be held in contempt of court for failing to comply with the subpoena, is denied..

Dated: New York, New York
November 18, 2021

SO ORDERED:



KEVIN NATHANIEL FOX
UNITED STATES MAGISTRATE JUDGE